

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Manuel M. Vázquez
Naples, Florida

)
)
)
)
)
)
)

File Number EB-02-TP-234
NAL/Acct.No.200232700015

FRN# 0007-3021-69

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 25, 2002

By the Enforcement Bureau, Tampa Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that Manuel M. Vázquez willfully and repeatedly violated Section 301 of the Communications Act of 1934, as amended (“Act”),¹ by operating a radio station on the frequency 103.3 MHz without Commission authorization. We conclude that Manuel M. Vázquez is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On April 19, 2002, while investigating complaints of unlicensed broadcast activity in the Naples, Florida area, agents from the Commission’s Tampa Field Office detected an FM radio station on the frequency 103.3 MHz. Using electronic direction finding techniques, the agents traced the signals on 103.3 MHz to a commercial building located at 2408 Linwood Avenue, Naples, Florida. The agents observed an antenna on the building and transmission cable connected to the antenna on one end and entering the building’s wall into Suite F. Standing outside Suite F, the agents heard music and voices that matched exactly the programming simultaneously broadcast by the station on 103.3 MHz. Based on field strength measurements taken by the agents of the station’s signal, this station required a license to operate. FCC records showed no license issued for operation of an FM radio station on this frequency in or near Naples, Florida. While still at the building at 2408 Linwood Avenue, the agents interviewed a man who refused to identify himself, but stated that he was an operator of the radio station. The agents hand delivered to the man a warning letter for unlicensed radio operation that advised that unlicensed operation violated Section 301 of the Act, listed the penalties for violation, and directed the man to terminate the unlicensed operation. The man stated that his station would continue to operate until either other unlicensed radio stations were shut down or the radio station equipment was seized by the police. The agents later spoke to the building owner who visually identified the man claiming to be the operator of the radio station as Manuel M. Vázquez. The building owner also stated that Manuel M. Vázquez

¹ 47 U.S.C. § 301.

leased the space in Suite F. The radio station on 103.3 MHz continued to broadcast as the agents left the area.

3. On April 20, 2002, agents from the Commission's Tampa Field Office again detected an FM radio station on the frequency 103.3 MHz. Using electronic direction finding techniques, the agents traced the signals on 103.3 MHz to the same commercial building located at 2408 Linwood Avenue, Naples, Florida. While at that location, the same man interviewed the day before who admitted to operating the station and who was identified by the building manager as Manuel M. Vázquez, arrived. The agents again interviewed Mr. Vázquez and warned him about the unlicensed radio operation. The radio station on 103.3 MHz continued to transmit, except with no audio, as the agents left the area.

III. DISCUSSION

4. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license. On April 19 and 20, 2002, Manuel M. Vázquez operated radio transmission equipment on the frequency 103.3 MHz without benefit of the required Commission license.

5. Based on the evidence before us, we find that on April 19 and April 20, 2002, Manuel M. Vázquez willfully² and repeatedly³ violated Section 301 of the Act by operating radio transmission apparatus without a license.

6. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the violation(s) cited in this notice is \$10,000.⁴ Section 503(b)(2)(D) of the Act requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁵ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended,⁶ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁷ Manuel M.

² 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'repeated,' when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503 (b)(2)(D).

⁶ 47 U.S.C. § 503(b).

Vázquez is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Manuel M. Vázquez SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and NAL/Acct. No. referenced in the letterhead above.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

13. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by regular mail and Certified Mail Return Receipt Requested to Manuel M. Vázquez, 1933 Piccadilly Circus, Naples, Florida 34112-3688.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Enforcement Bureau

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁸ See 47 C.F.R. § 1.1914.